

Date: APR 6 1983

CERTIFIED MAILEmployer Identification Number:
[REDACTED]Form Number:
[REDACTED]Tax Years:
[REDACTED]Key District:
[REDACTED]Person to Contact:
[REDACTED]Contact Telephone Number:
[REDACTED]

Dear Appellant:

This is a final adverse determination as to your exempt status under section 501(c)(3) of the Internal Revenue Code.

Our adverse determination was made for the following reason(s):

- 1) You are not organized or operated exclusively for any exempt purpose described in section 501(c)(3).
- 2) Your operations further private interest. You are not, therefore, operated exclusively for exempt purposes.
- 3) Your income inures to the benefit of private individuals.
- 4) Your assets are not permanently dedicated to exempt purposes. You are not, therefore, organized exclusively for exempt purposes.

Contributions to your organization are not deductible under Code section 170.

You are required to file Federal income tax returns on the form indicated above. Based on the financial information you furnished, it appears that returns should be filed for the above years. You should file these returns with your key District Director, EP/EO Division, within 30 days from the date of this letter, unless a request for an extension of time is granted. Processing of income tax returns and assessment of any taxes due will not be delayed because you have filed a petition for declaratory judgment under Code section 7428. You should file returns for later tax years with the appropriate service center shown in the instructions for those returns.

If you decide to contest this determination under the declaratory judgment provisions of Code section 7428, a petition to the United States Tax Court, the United States Court of Claims, or the district court of the United States for the District of Columbia must be filed within 90 days from the date this determination was mailed to you. Contact the clerk of the appropriate court for rules for filing petitions for declaratory judgment.

(over)

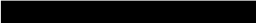
We will notify the appropriate State officials of this action, as required by Code section 6104(c).

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely yours,

A large black rectangular redaction box covering the signature area.

Associate Chief,
Appeals Office

cc: 

District
Director

Person to Contact:

Telephone Number:

Refer Reply to:

Date:

FEB 0 2 1982

Dear Applicant:

We have completed our review of the application for recognition of exemption under section 501(c)(3) of the Internal Revenue Code which you recently filed.

The evidence submitted indicates that you were incorporated under the laws of [REDACTED] for the purpose of operating as a church. You have not submitted any by-laws or other documentation which indicates any other purposes for your organization.

Membership in your organization consists of [REDACTED] members, including [REDACTED] members of your family. Church leaders are chosen by divine direction and approval of your church leaders. The sole requirement for designation as a leader in your organization is that the individual involved study the scriptures.

Your organization conducts services at the residence of your pastor with space for the church being provided rent free.

Your organization claims no affiliation with any other congregation or organization and you also claim to conduct workshops, seminars and other instructional meetings. Your organization also issues Certificates of Ordination and Ministerial Licenses.

The primary activity of your organization is conducting Sunday worship services. You do not expect to operate a religious school for the instruction of the young.

Your income is primarily from contributions. Expenditures are mostly for a building fund, utilities and Christian education materials.

To qualify as an organization described in section 501(c)(3), the applicant organization has the burden of showing that it meets the qualification for exemption under this section. Specifically, the organization must show that (1) it is organized for one or more exempt purposes (2) it is operated

exclusively for one or more exempt purposes and (3) that no part of its net earnings inure to the benefit of a private shareholder or individual. (See Hancock Academy of Savannah Inc., v. Commissioner, 69 T.C. 488 (1977).

To meet the organizational test, the articles of incorporation for the applicant organization must limit the purposes of the organization to one or more exempt purposes described in section 501(c)(3). The articles must also not specifically empower the organization to engage, except insubstantially, in activities not in furtherance of one or more of these purposes. An organization will not meet this test unless its assets are dedicated to an exempt purpose upon dissolution. This means that the organization's governing instrument must contain a written provision which distributes the assets of the corporation to qualifying organizations in the event it dissolves.

The operational test requires that an organization's activities be primarily those which accomplish one or more exempt purposes described in section 501(c)(3). Also, an organization is not considered to be operated exclusively for exempt purposes unless it serves a public rather than a private interest. Section 1.501(c)(3)-1(d)(ii), Income Tax Regulations, Callaway Family Association v. Commissioner, 71 TC 340, (1978). The application must therefore prove that it is not operated for the benefit of the private interest of individuals such as the founder or his family. Basic Bible Church v. Commissioner 74 TC 846 (1980).

The United States Tax Court has issued the following additional guidelines on whether an organization will qualify for exemption under section 501(c)(3) and as a church as described in section 509(a)(1) and 170(b)(1)(A)(i).

In Truth Tabernacle, TC Memo 1981-214, the Court stated that a church organization did not meet the requirements for exemption under section 501(c)(3). The record showed that the organization did not maintain formal accounting records of its funds, expenditures or contributions and did not have documentation on the use of its money. Therefore, the Court concluded that there was insufficient information to determine whether the organization was operated exclusively for any exempt purpose and denied exemption to the organization. See also Church of the Transfiguring Spirit v. Commissioner, TC 1 (1981), and Southern Church of Brotherhood v. Commissioner, 74 TC 196 (1979).

In Western Catholic Church v. Commissioner, the Court ruled that because the organization claiming status as a church set substantial amounts of its income aside for a building fund and did not distribute any significant amounts to care for the sick and needy, the organization was engaging in passive investment and therefore did not qualify for exemption from Federal income tax since its activities were not devoted exclusively to promoting an exempt purpose. The fact that an organization claiming to be a church must show that it makes

substantial expenditures for the care of the sick, needy and imprisoned was also discussed in Bubbling Well Church of Universal Love versus Commissioner, 74 TC 39 (6-1980). The Court concluded that because the organization could show no direct evidence of expenditures for this purpose, it did not qualify for exemption from Federal income tax since the organization was directly benefiting its creators and founders.

For the following reasons, we have determined that your organization is not entitled to exemption under section 501(c)(3) or to recognition as a church as described in section 509(a)(1) and 170(b)(1)(A)(i).

1. You fail the organizational test of section 501(c)(3) since your assets are not dedicated to an exempt purpose.
2. You fail the operational test because you have not established that you are a church. You have not submitted sufficient information to show that you minister to a regular congregation and conduct religious services which are open to the general public, nor have you shown that you serve a public purpose as required by the regulations.
3. You have not maintained proper financial records for us to determine that your expenditures are distributed primarily for charitable purposes. The general statement of expenditures submitted to us shows that most of your funds are used for maintenance of property and accumulated in a building fund and this information is insufficient for us to determine whether you are operated exclusively for any any exempt or public purpose.

You are required to file Federal income tax returns on Form 1120.

You have the right to appeal our determination if you believe it is incorrect. To appeal, please refer to the enclosed Publication 892.

In accordance with section 6104(c) of the Code, we are notifying the appropriate state officials of this determination.

"If you do not protest this determination within 30 days from the date of this letter, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7428(b)(2) of the Internal Revenue Code provides, in part, that "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Court of Claims or the district court of the United States for the District of Columbia determines that the organization has exhausted administrative remedies available to it within the Internal Revenue Service."

[REDACTED]

If you have any questions concerning this letter, please contact the person whose name appears above.

Sincerely yours,

[REDACTED]
District Director

Enclosure: Publication 392